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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 15 Case

FAIRFIELD SENTRY LIMITED, et al.,

Case No. 10-13164 (SMB)

Debtors in Foreign Proceedings.

Jointly Administered

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FAIRFIELD SENTRY LIMITED, et al.,

Plaintiffs,

Adv. Proc. No. 10-3635 (SMB)

-against-

Adv. Proc. No. 10-3636 (SMB)

ABN AMRO SCHWEIZ AG, et al.,

**INDIVIDUAL
SUPPLEMENTAL BRIEF
OF RBC INVESTOR
SERVICES BANK, S.A.**

Defendants.

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RBC Investor Services Bank, S.A., formerly known as RBC Dexia Investor Services Bank, S.A., and possibly the entity intended by the plaintiffs in naming as a defendant “RBC Dexia Investor Service Julius Baer SICAV,” respectfully submits this Individual Supplemental Brief pursuant to paragraph I(B) of the Supplemental Case Management Order dated October 18, 2016.

1. RBC Investor Services Bank, S.A. joins in the arguments raised in the Consolidated Brief and the Motion to Dismiss on Forum Non Conveniens Grounds.

We join in the consolidated motion to dismiss filed January 13, 2017,¹ and the separate Motion to Dismiss on Forum Non Conveniens Grounds filed on January 27, 2017.² We further

¹ Docket Nos. 170, 171, 172, 173, 174, and 179 (Adv. Pro. No. 10-3635) and Docket Nos. 189, 190, 191, 192, 193, and 201 (Adv. Proc. No. 10-3636).

join in any memoranda of law filed by codefendants concerning preemption or improper service under either Luxembourg law or under the Hague Convention.

2. RBC Investor Services Bank, S.A. has not been properly named or served.

RBC Investor Services Bank, S.A., formerly known as RBC Dexia Investor Services Bank, S.A. (“RBC”), has not been properly named or served. First, the focus of the complaint is on the beneficial shareholders of Julius Baer SICAV (*see, e.g.*, Proposed Amended Complaint ¶14, which defines “Defendants” as coextensive with “Beneficial Shareholders”), and RBC was not the beneficial shareholder of the transactions (none of which is facially attributable to RBC) listed in the exhibits to the complaints. Second, RBC has never gone by the name “RBC Dexia Investor Service Julius Baer SICAV,”³ which is a mash-up of two completely separate corporate entities. Finally, the complaint alleges a service address⁴ that was, upon information and belief, at all pertinent times, the registered address of Julius Baer SICAV, not RBC.⁵

In short, it appears that Julius Baer SICAV is the intended defendant. In any event, the manifest deficiencies in the complaint reflect far more than a mere “misnomer or misidentification,” and are woefully inadequate to put RBC on notice that it is the intended defendant, *Krupski v. Costa Crociere S.p.A.*, 130 S. Ct. 2485, 2492 (2010), or to comply with service requirements under the Federal Rules or the Hague Convention. Indeed, the clear import of the collective allegations — the focus on the beneficial shareholders, the mashed-up name that

² Docket Nos. 206, 207, 208 (Adv. Proc. No. 10-3635) and Docket Nos. 229, 230, and 232 (Adv. Proc. No. 10-3636).

³ “SICAV” is short for Société d’investissement à Capital Variable, which is similar to an open-ended mutual fund.

⁴ 69 Route D’Esch, Luxembourg, L-2953. *See* Proposed Amended Complaint ¶88 (Docket No. 10-3635); ¶95 (Docket No. 10-3636).

⁵ *See, e.g.*, June 20, 2011 Audited Annual Report for Julius Baer Multicash Société d’investissement à Capital Variable at 3.

prominently includes a purported beneficial shareholder, and service upon that same purported beneficial shareholder rather than RBC — is that RBC Investor Services Bank, S.A. is not an intended defendant, let alone a proper defendant, and, more importantly, that it has been denied timely, legally-sufficient notice that it is an intended defendant.

Dated: New York, New York
January 27, 2017

Respectfully Submitted,

WOLLMUTH MAHER & DEUTSCH LLP

By:

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